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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/720,353	11/24/2003	Brian D. Smith	2003-0604.02	4714
21972	7590	07/10/2006	EXAMINER	
LEXMARK INTERNATIONAL, INC. INTELLECTUAL PROPERTY LAW DEPARTMENT 740 WEST NEW CIRCLE ROAD BLDG. 082-1 LEXINGTON, KY 40550-0999			GARCIA JR, RENE	
			ART UNIT	PAPER NUMBER
			2853	

DATE MAILED: 07/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/720,353	Applicant(s) SMITH ET AL.	
	Examiner Rene Garcia, Jr.	Art Unit 2853	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 April 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>20 April 2006</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement filed 20 April 2006 has been received by the office and has been considered.

Claim Objections

2. Claims 4 and 7 are objected as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The term “substantially” is provided with no support in the specification for standard of measuring the degree intended.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 2 and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by Kobayashi et al. (US 2002/0044184).

Kobayashi et al. disclose the following claimed limitations:

*regarding claim 1, inkjet printhead, comprising:

*plurality of air diffusion vents/**vent holes, 115A/**

***label/re-releasable film, 150A/** positioned over an entirety of at least one of said air diffusion vents during use (fig. 11; paragraph 0103 & 0110; re-releasable film/label/ is

positioned over vent holes while the ink cartridge is being shipped/stored [until use in a printer]
during use refers to during use of re-releasable film in regards to claim limitation)

*regarding claim 2, plurality of air diffusion vents/**115A/** reside in a top surface of an
inkjet printhead lid (paragraph 0103 – formed in upper cover/11/)

*regarding claim 4, inkjet printhead, comprising:

*interior/**foam chambers, 14A/**

*at least two air diffusion vents/**vent holes, 115A/** in fluid communication with said
interior/**14A/** (paragraph 0018)

*label/**re-releasable film, 150A/** positioned over an entirety of at least one of said at least
two air diffusion vents/**115A/** during use (re-releasable film/label/ is positioned over vent holes
while the ink cartridge is being shipped/stored [until use in a printer] during use refers to during
use of re-releasable film in regards to claim limitation) to substantially prevent said at least one
air diffusion vent/**115A/** from being in fluid communication with atmosphere (paragraph 0018)

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all
obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 3, 5-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kobayashi
et al. (US 2002/0044184) in view of Matsuzaki et al. (US 6,416,152).

Kobayashi et al. disclose the following claimed limitations:

*regarding claim 5, surface with a plurality of air diffusion vents/**vent holes, 115A/** (fig. 11)

*regarding claim 6, surface is a top surface of an inkjet printhead lid (paragraph 0103 – formed in upper cover/11/)

*regarding claim 7, inkjet printhead, comprising:

*body defining an interior/**foam chambers, 14A/**

*lid (paragraph 0103 – formed in upper cover/11/) having a top and bottom surface, said bottom surface connected to said body, said top surface having more than one air diffusion vent/**vent holes, 115A)** (fig. 11)

*regarding claim 8, each said air diffusion vent/**vent holes, 115A/** has a serpentine channel/**air-releasing channels, 116A/** terminating in a hole extending through a thickness of said lid from said top surface to said bottom surface (fig. 11; paragraph 0103)

Kobayashi et al. does not disclose the following claimed limitations:

*regarding claim 3, label is not positioned over an entirety of another of said air diffusion vent

*regarding claim 5, surface having at least two predetermined label placement positions

*label on said surface positioned in one of said at least two predetermined label placement positions wherein all or less than all of said plurality of air diffusion vents are in fluid communication with atmosphere

*regarding claim 7, two predetermined label placement positions, each said air diffusion vent being in fluid communication with said interior

*label adhered to said top surface of said lid and positioned in one of said two predetermined label placement positions such that none or some of said air diffusion vents are substantially prevented from being in fluid communication with atmosphere

Matsuzaki et al. disclose the following:

*regarding claim 3, label is not positioned over an entirety of another of said air diffusion vent/**air communicating port/26/** (fig. 9c; air communicating port/26/ in direct contact with groove/28/ and air communication hole/28a/) for the purpose of having air communication hole open to atmosphere when in use

*regarding claim 5, surface having at least two predetermined label placement positions (fig. 9a-9c; locations corresponding to first sealing part/52a/ and second sealing part/52c/) for the purpose of not having air communication hole open to atmosphere when not in use

*label on said surface positioned in one of said at least two predetermined label placement positions wherein all or less than all of said plurality of air diffusion vents/**air communicating port/26/** are in fluid communication with atmosphere (fig. 9a-9c; and 3a-3c, 7a-7c, 10a-10c) for the purpose of having air communication hole open to atmosphere when in use

*regarding claim 7, two predetermined label placement positions (fig. 9a-9c; locations corresponding to first sealing part/52a/ and second sealing part/52c/), each said air diffusion vent/**air communicating port/26/** being in fluid communication with said interior for the purpose of not having air communication hole open to atmosphere when not in use

*label adhered to said top surface of said lid and positioned in one of said two predetermined label placement positions such that none or some of said air diffusion vents/**air communicating port/26/** are substantially prevented from being in fluid communication with atmosphere (fig. 9a-9c; and 3a-3c, 7a-7c, 10a-10c) for the purpose of having air communication hole open to atmosphere when in use

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to utilize a label is not positioned over an entirety of another of said air diffusion vent; surface having at least two predetermined label placement positions, label on said surface positioned in one of said at least two predetermined label placement positions wherein all or less than all of said plurality of air diffusion vents are in fluid communication with atmosphere; and two predetermined label placement positions, each said air diffusion vent being in fluid communication with said interior, label adhered to said top surface of said lid and positioned in one of said two predetermined label placement positions such that none or some of said air diffusion vents are substantially prevented from being in fluid communication with atmosphere as taught by Matsuzaki et al. into Kobayashi et al. for the purposes of having air communication hole open to atmosphere when in use; and not having air communication hole open to atmosphere when not in use.

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7. Claim 9 is rejected under 103(a) as being unpatentable over Kobayashi et al. (US 2002/0044184) as modified by Matsuzaki et al. (US 6,416,152) as applied to claim 7 above.

Kobayashi et al. as modified by Matsuzaki et al. discloses all the claimed limitations except for the following:

*regarding claim 9, length of said serpentine channel divided by a width multiplied a depth of a terminal end of said serpentine channel is numerically about 210

It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize a serpentine channel divided by a width multiplied a depth of a terminal end of said serpentine channel that is numerically about 210, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. For the purpose providing an air channel in fluid communication with interior and atmosphere.

In re Boesch, 617 F.2d 272, 205 USPQ 215 (CCPA 1980)

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to utilize serpentine channel divided by a width multiplied a depth of a terminal end of said serpentine channel that is numerically about 210 for the purpose of providing fluid communication of interior with the atmosphere.

8. Claims 10 and 11 are rejected under 103(a) as being unpatentable over Kobayashi et al. (US 2002/0044184) as modified by Matsuzaki et al. (US 6,416,152) as applied to claim 7 above, and further view of Ujita et al. (US 2002/0158949).

Kobayashi et al. as modified by Matsuzaki et al. discloses all the claimed limitations except for the following:

*regarding claim 10, label is a two layer laminate

*regarding claim 11, label is a layer of polyester over a layer of polypropylene

Ujita et al. disclose the following:

*regarding claim 10, label is a two layer laminate (paragraphs 0261-0264) for the purpose of obtaining a good contact at the fused point between the seal tape and ink cartridge

*regarding claim 11, label is a layer of polyester over a layer of polypropylene (paragraphs 0261-0264) for the purpose of obtaining a good contact at the fused point between the seal tape and ink cartridge

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to utilize a label is a two layer laminate; and label is a layer of polyester over a layer of polypropylene as taught by Ujita et al. into Kobayashi et al. as modified by Matsuzaki et al. for the purpose of obtaining a good contact at the fused point between the seal tape and ink cartridge.

Response to Arguments

9. Applicant's arguments filed 20 April 2006 have been fully considered but they are not persuasive. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., air-releasing channel being entirely covered) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Applicant is arguing that air-releasing channel/115/ of Kobayashi (US 2002/0044184) is not "entirely" covered by re-sealable film, however no such limitation has been recited in independent claim 1. Kobayashi discloses the vent holes/115A/ as being covered "entirely" as

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shown with regards to figure 11. Air diffusion vents, as claimed, do not include the channel leading to/from air vents as eluded to by applicant in arguments.

10. In response to applicant's argument that label is present during use of inkjet printhead, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. Koyayashi does not teach or suggest in the specification the re-sealable film/150A/ must be removed, or the air-releasing channels must be vented to atmosphere during use.

With regards to claims 5 and 7 that Matsuzaki (US 6,416,152) teaches “none” of air vents being in fluid communication with atmosphere is a limitation provided for in the claimed limitations. Claim 5 recites that “all or less than all” and claim 7 recites “none or some”, the limitation of “less than all” includes none.

Applicants arguments, with respect to claims 5 and 7, that removal of label constitutes that a “lack of position” exist is respectively disagreed with. The fact that there is a position for label to cover teaches a second position is provided for label placement. It is maintained that Matsuzaki teaches two positions for two label portions to cover. Claim limitations do not exclude that label positions can be for two separate label portions (27a and 27b) only that a plurality of label positions are provided on surface. Nor do the claim limitations exclude that two [or more] labels can be positioned over vents.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Studer et al. (US 6,969,163) includes a plurality of air vents covered by a seal on top surface of a cover of an ink reservoir. Watanabe (US 6,247,804) includes a plurality of vents with seal covering two label positions for preventing atmosphere communication of vents.

12. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

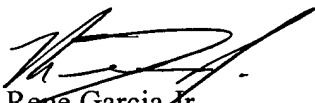
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

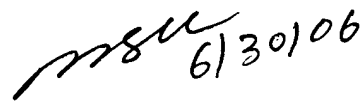
Communications with the USPTO

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rene Garcia, Jr. whose telephone number is (571) 272-5980. The examiner can normally be reached on M-F 8:00AM - 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen D. Meier can be reached on (571) 272-2149. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Rene Garcia Jr
06/06


MANISH S. SHAH
PRIMARY EXAMINER